

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

AMRAN JABIR,)	
)	CASE NO. 1:19CV2005
Petitioner,)	(1:18CR0072-6)
)	
v.)	JUDGE BENITA Y. PEARSON
)	
UNITED STATES OF AMERICA,)	
)	<u>ORDER</u>
Respondent.)	[Resolving ECF No. 379]

Pending is Attorney Joseph F. Gorman's Motion to Withdraw as Counsel and Appoint Appellate Counsel ([ECF No. 379](#)).¹

Petitioner Amran Jabir appealed the district court's judgment denying his Motion Under [28 U.S.C. § 2255](#) to Vacate, Set Aside, or Correct Sentence. The Court of Appeals for the Sixth Circuit vacated the district court's denial of Petitioner's claim that his trial counsel performed ineffectively by failing to file a notice of appeal as instructed and remanded the case for an evidentiary hearing to determine whether Petitioner instructed his trial counsel to file a notice of appeal. The district court's judgment was affirmed in all other respects. [Jabir v. United States, No. 22-4061 \(6th Cir. April 17, 2024\)](#) (order) ([ECF No. 366](#)). The Clerk of the Sixth Circuit

¹ The docket references are to the criminal case, not the related civil case, 1:19CV2005.

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issued a Judgment ([ECF No. 366-1](#)). On June 10, 2024, the Clerk of the Sixth Circuit issued the mandate pursuant to [Fed. R. App. P. 41](#) ([ECF No. 368](#)).

Attorney Gorman, a member of the CJA Panel, was appointed as counsel for Petitioner for the limited purpose of representation at the evidentiary hearing concerning Petitioner's claim that he instructed his trial counsel to file a notice of appeal. *See* Order ([ECF No. 369](#)).

For the reasons set forth on the record during the evidentiary hearing, the Court determined that Petitioner did not show by a preponderance of the evidence that he instructed his trial counsel, Robert Duffrin, to file a notice of appeal. Accordingly, the Court found that Ground One failed to demonstrate that Petitioner is entitled to relief under [§ 2255](#). *See* Minutes of Proceedings dated August 21, 2024.

Attorney Gorman has filed a timely Notice of Appeal ([ECF No. 380](#)) from the Court's August 21, 2024 decision.

For good cause shown, the Motion to Withdraw as Counsel is granted. Joseph F. Gorman is allowed to withdraw from further representation of Petitioner Amran Jabir in the above-captioned case. The Motion to Appoint Appellate Counsel, however, is denied. *See Day v. United States*, 428 F.2d 1193, 1194-95 (8th Cir. 1970) (district court did not abuse its discretion in denying the request for appointment of counsel to pursue an appeal because the record before the court of appeals was full and complete and the primary question presented by the appeal involved a review of the evidence presented at an evidentiary hearing on a [§ 2255](#) motion conducted by the trial judge at which petitioner was represented by counsel).

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Attorney Gorman shall forthwith serve a copy of this Order upon Amran Jabir in accordance with the applicable Federal Rules of Civil Procedure and the Local Rules for filing and service of non-electronic documents and file a proof of service.

IT IS SO ORDERED.

September 5, 2024
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge